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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,504	03/31/2004	Jewel Tracy	20031124-001	6464
7590		07/17/2009		
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EXAMINER				
LANDRUM, EDWARD F				
ART UNIT		PAPER NUMBER		
3724				
MAIL DATE		DELIVERY MODE		
07/17/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/814,504

Applicant(s)

TRACY, JEWEL

Examiner

Edward F. Landrum

Art Unit

3724

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 July 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☒ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Boyer D. Ashley/
Supervisory Patent Examiner, Art Unit 3724

Continuation of 3. NOTE: Regarding the drawings and new matter Figures 1-6 all contain new matter. In Figures 1 and 6 applicant has amended the location of the guide slots 8 from being directly adjacent the outer edges of the sanitary covering material 2 to a small distance away from the outer edges. These are considered the outer edges because the outer edges are the same width as the roll of sanitary covering material. Furthermore, applicant has added a dotted line to show the locations, and it is not understood what this is supposed to represent as the frame 5 is not shown in any original drawing as having any portion extending above the sanitary covering material.

Regarding Figures 2 and 5, applicant has added a line extending longitudinally above the sanitary covering material 2. Examiner believes applicant is trying to show structure the slot is composed of. Applicant however has not provided any structure of the slot in the originally filed disclosure and showed previously in Figures 2 and 5 that the frame 5 did not extend above or in the same plane as the sanitary covering material. Therefore this newly added line is new matter.

Regarding Figures 3 and 6, the originally filed specification states "for positioning said sanitary covering material on any floor to provide a sanitary area for a user to stand" (Brief Summary of the Invention lines 1-3; Detailed Description lines 1-3), and that "A material which adheres to the floor 3 surface on which the foot frame 1 will be used should be chosen to minimize the propensity for the user to slip and fall when mounting and dismounting the foot frame". Applicant never states in the specification that the portion of the sanitary material that would adhere to the floor is within the sanitary area and this cannot be inferred as the embodiment shown in Figures 4-6 show that a take up roller 7 need not be used and therefore it is possible the sanitary covering material can rolled onto and contact the floor such that when a user steps off the foot frame 1 the user could still step on sanitary material outside of the frame to avoid slipping. Furthermore, since originally filed Figures 3 and 6 show the frame 5 as a solid piece with no interior holes the addition of the hole in the frames of Figures 3 and 6 is new matter.

Regarding the amendment to claim 1, the sanitary covering area has been defined in the specification as the area within the first through fourth sides of the frame. If the sanitary covering material was in contact with any floor there are several instances where the sanitary area would not be entirely planar and parallel to the floor. Furthermore, the above recited portions of the disclosure never states that the sanitary material ever contacts the floor, only that the material is capable of adhering to the floor surface. Therefore this limitation is new matter.

Regarding examiner's 112 2nd rejection, applicant has not amended the claims to overcome these rejections. The lack of antecedent basis issue in claims 1 and 9 are found in lines 7 and 8 respectively and have to do with the limitation of "said sanitary surface" not the sanitary covering material. Replacing "said" with "a" just creates additional problems with the claims as not two different sanitary covering materials have been claimed that will result in specification and drawing objections.